

Chapter Ins 50

ANNUAL AUDITED FINANCIAL REPORTS, ANNUAL FINANCIAL STATEMENTS AND EXAMINATIONS

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Note: Chapter Ins 50 was created as an emergency rule effective March 12, 1993.

Subchapter I — Annual Audited Financial Reports

Ins 50.01 Definitions. In this chapter:

(1) "Alien insurer" has the meaning provided under s. 600.03 (2), Stats.

(1g) "Affiliate" of, or person "affiliated" with, a specific person means a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

(1r) "Audit committee" means a committee or equivalent body established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of the controlled insurers solely for the purposes of this chapter at the election of the controlling person under s. Ins 50.15 (6). If an audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee.

(2) "Audited financial report" means a financial report prepared and conforming to s. Ins 50.06.

(3) "Executive officer" means any individual charged with the active management and control in an executive capacity of a person, whether incorporated or unincorporated and includes, but is not limited to, a chair of the board, president, vice president, treasurer, secretary, controller, and any individuals performing similar functions.

(4) "Foreign insurer" has the meaning provided under s. 600.03 (20), Stats.

(4g) "Group of insurers" means those licensed insurers included in the reporting requirements of ch. 617, Stats., or a set of insurers identified by the insurers' management or controlling person for the purpose of assessing the effectiveness of internal control over financial reporting.

(4m) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing or other misrepresentations made by the insurer or its representatives.

(4r) "Independent board member" has the meaning given in s. Ins 50.15 (4).

(5) "Independent certified public accountant" means:

(a) An independent certified public accountant, or independent accounting firm, in good standing with the American institute of certified public accountants and in all states in which the accountant or firm is licensed, or required to be licensed, to practice; or

(b) For Canadian and British companies, a Canadian chartered or British chartered accountant.

(6) "Insurer" means an insurer licensed under s. 185.981, Stats., or ch. 611, 612, 613, 614 or 618, Stats., and the state life fund.

(6m) "Internal control over financial reporting" means a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of financial statements, including the items specified in s. Ins 50.06 (2) (b) to (3), and includes those policies and procedures that:

(a) Pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of assets;

(b) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, including those items specified in s. Ins 50.06 (2) (b) to (3), and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

(c) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the audited financial

statements, including those items specified in s. Ins 50.06 (2) (b) to (3).

(7) "Policyholder surplus" means capital and surplus.

(7d) "SEC" means the United States Securities and Exchange Commission.

(7h) "Section 404" means section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated thereunder.

(7p) "Section 404 Report" means management's report on internal control over financial reporting as defined by the SEC and the related attestation report of the independent certified public accountant.

(7t) "SOX Compliant Entity" means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002:

(a) The preapproval requirements of section 201, section 10 A (i), of the Securities and Exchange Act of 1934;

(b) The audit committee independence requirements of section 301, section 10 A (m) (3) of the Securities and Exchange Act of 1934; and

(c) The internal control over financial reporting requirements of Section 404, item 308 of SEC Regulation S-K.

(8) "State of domicile" means the state where an insurer is domiciled or, for an alien insurer, its port of entry state.

(8m) "Ultimate controlling person" means a person who is not controlled by any other person.

(9) "Work papers" means records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the independent certified public accountant's examination of the financial statements of an insurer. "Work papers" include, but are not limited to, audit planning documentation, audit guides, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of examination of the financial statements of an insurer or which support the opinion of the independent certified public accountant regarding the financial statements.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; correction in (4) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 2001, No. 546; CR 07-023: cr. (4m), Register September 2007 No. 621, eff. 10-1-07; CR 08-053: cr. (1g), (1r), (4g), (4r), (6m), (7d), (7h), (7p), (7t) and (8m) Register December 2008 No. 636, eff. 1-1-09.

Ins 50.02 Applicability. Unless otherwise ordered by the commissioner, this subchapter applies to all insurers except:

(1) An insurer is not subject to this subchapter for a calendar year in which the insurer has:

(a) Direct premiums written in this state of less than \$100,000 and less than 1,000 policyholders or certificate holders of directly written policies in the state at the end of the calendar year; and

(b) Assumed premiums nationwide of less than \$1,000,000 under reinsurance contracts or treaties and direct premiums written nationwide of less than \$1,000,000.

(2) A foreign or alien insurer is exempt from this chapter except for s. Ins 50.03 if:

(a) It complies with another state's requirement to submit audited financial reports and the other state's requirement is found by the commissioner to be substantially similar to the requirements of this chapter; and

(b) It files audited financial reports with that state's commissioner of insurance or equivalent agency.

(3) An insurer licensed under ch. 612, Stats., if the insurer meets all of the following requirements:

(a) Has direct total written premium for the calendar year, including premiums on nonproperty coverage, of less than \$500,000;

(b) Has a net of reinsurance premium to policyholder surplus ratio of less than 3 to 1 as of the December 31 of the year for which an audited financial report is otherwise required.

(c) Is not authorized under its articles of incorporation to do business in more than 8 counties.

(d) Does not engage in the writing of nonproperty coverage unless the nonproperty coverage is 90% reinsured.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; am. (1) (b), Register, December, 1995, No. 480, eff. 1-1-96; am. (3) (intro.) and (a) to (d) and r. (3) (e) and (f), Register, June, 2001, No. 546, eff. 1-1-02; CR 08-053: am. (2) (a) Register December 2008 No. 636, eff. 1-1-09.

Ins 50.03 Filing by exempt foreign and alien insurers. A foreign or alien insurer which is exempt from this subchapter under s. Ins 50.02 (2) shall:

(1) File a copy of the audited financial report, report on significant deficiencies in internal controls, and the accountant's letter of qualifications which are filed with the other state with the commissioner not later than the filing dates specified in ss. Ins 50.05, 50.12 and 50.13, respectively. Canadian insurers which are not subject to this subchapter under s. Ins 50.02 (2) shall submit to the commissioner accountants' reports as filed with the Canadian Dominion department of insurance not later than the filing dates specified in s. Ins 50.05.

(2) File with the commissioner a copy of any notification of adverse financial condition report filed with, or required to be filed with, the other state within the time specified in s. Ins 50.11.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.04 Authority to obtain information or examine not restricted. This subchapter does not limit the authority of the commissioner to require an insurer or any other person to provide information, or to conduct an examination of an insurer or any other person, under any other statute or rule.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.05 General requirements related to filing and extensions for filing of annual audited financial reports and audit committee appointment. (1) An insurer shall:

(a) Annually obtain or cause an audit of the insurer by an independent certified public accountant; and

(b) File an audited financial report that complies with s. Ins 50.06 with the commissioner on or before June 1 for the immediately preceding calendar year.

(2) The commissioner may require an insurer to file the audited financial report earlier than the date specified under sub. (1) if the commissioner gives 90 days advance notice to the insurer.

(3) The commissioner may grant extensions of the filing date under sub. (1) for 31-day periods if the insurer and independent certified public accountant establish there is good cause for an extension. A request for an extension shall be submitted in writing not less than 10 days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension. If an extension is granted in accordance with this subsection, a similar extension of 31 days is granted to the filing of management's report of internal control over financial reporting.

(4) An insurer may not retain an accountant or accounting firm to comply with sub. (1) or s. Ins 50.07 unless the accountant or accounting firm is an independent certified public accountant, regardless of whether the commissioner has issued a ruling under s. Ins 50.08 (1). An insurer may not retain an accountant or accounting firm to comply with sub. (1) or s. Ins 50.07 if the commissioner under s. Ins 50.08 (1) rules that the accountant or accounting firm is not qualified or if the accountant or accounting firm does not comply with s. Ins 50.08 (2).

(5) Every insurer required to file an annual audited financial report pursuant to this chapter shall designate a group of individuals to constitute its audit committee. The audit committee of an

entity that controls an insurer may be deemed to be the insurer's audit committee for purposes of this chapter at the election of the controlling person.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; CR 08-053: am. (title) and (3), cr. (5) Register December 2008 No. 636, eff. 1-1-09.

Ins 50.06 Contents of annual audited financial report. The annual audited financial report required under s. Ins 50.05 shall comply with all of the following:

(1) Report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the department of insurance, or equivalent agency, of the state of domicile, or, for a domestic insurer, in conformity with accounting practices prescribed or permitted in annual statements filed with the commissioner, as provided under s. Ins 7.02.

(2) Include all of the following:

- (a) The report of the independent certified public accountant.
- (b) A balance sheet reporting admitted assets, liabilities, capital and surplus.
- (c) A statement of operations.
- (d) A statement of cash flows.
- (e) A statement of changes in capital and surplus.
- (f) Notes to financial statements. These notes shall be those required by the appropriate national association of insurance commissioners' annual statement instructions and accounting practices and procedures manual. The notes shall include a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to subch. II with a written description of the nature of these differences.

(3) Include financial statements prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner. The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31, except in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; CR 01-050: renum. (2) (f) (intro.) and am., r. (2) (f) l. and 2., Register October 2001 No. 550, eff. 11-1-01.

Ins 50.07 Designation of independent certified public accountant. (1) An insurer shall, within 60 days after the insurer becomes subject to this subchapter:

- (a) Provide the commissioner in writing the name and address of the independent certified public accountant retained to conduct the annual audit required by this subchapter.
- (b) File with the commissioner a copy of the letter required to be obtained under sub. (3).

(2) Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained independent certified public accountant not less than 6 months before the date when the first audited financial report is to be filed.

(3) An insurer shall obtain a letter from the independent certified public accountant it retains to conduct the annual audit required by this subchapter. The letter shall state that the independent certified public accountant:

- (a) Is aware of the provisions of the insurance code and the rules and regulations of the insurance department or equivalent agency of the state of domicile of the insurer that relate to accounting and financial matters of insurers; and
- (b) Will express an opinion on whether the financial statements conform to the statutory accounting practices prescribed or otherwise permitted by that department or equivalent agency and will specify exceptions as appropriate.

(4) If an independent certified public accountant for the immediately preceding filed audited financial report of an insurer is dismissed or resigns, the insurer shall comply with all of the following:

(a) The insurer shall within 5 business days notify the commissioner of the dismissal or resignation.

(b) The insurer shall within 15 business days furnish the commissioner with a letter which clearly states that there was no disagreement required to be disclosed under this paragraph or which describes any disagreement between the insurer and the independent certified public accountant in the 24 months preceding the dismissal or resignation, which:

1. Was on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; and

2. Would require the independent certified public accountant to make reference to the subject matter of the disagreement in connection with the opinion required under s. Ins 50.06. The requirement to provide a description applies regardless of whether the disagreement was resolved or whether the former independent certified public accountant was satisfied with the resolution.

(c) The insurer shall within 15 business days furnish the commissioner with a letter from the independent certified public accountant addressed to the insurer stating whether the independent certified public accountant agrees with the statements contained in the insurer's letter required under par. (b) and, if not, stating the reasons why not.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.08 Qualifications of independent certified public accountants. (1) The commissioner may rule that an accountant or accounting firm is not qualified for purposes of expressing an opinion on the financial statements in the annual audited financial report required under this subchapter and prohibit insurers from retaining the accountant or an accounting firm, and require insurers to replace the accountant or accounting firm, if the commissioner finds there is cause, including, but not limited to, a finding that the accountant or accounting firm:

(a) Is not in good standing with the American institute of certified public accountants and in all states in which the accountant or accounting firm is, or is required to be, licensed to practice, or, for a Canadian or British company, that it is not a chartered accountant;

(am) Has either directly or indirectly entered into an agreement of indemnification with respect to the audit of the insurer;

(b) Has not conformed to the standards of the accounting profession as contained in the code of professional ethics of the American institute of certified public accountants and rules and regulations and code of ethics and rules of professional conduct of the accounting examining board, or a similar code;

(c) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 USC 1961 to 1968, or any dishonest conduct or practices under federal or state law;

(d) Has been found to have violated the insurance laws or rules of this state; or

(e) Has demonstrated a pattern or practice of failing to detect or disclose material information in financial reports.

(2) After December 31, 1994, and prior to January 1, 2010, no accounting firm partner or other person responsible for rendering a report required of an independent certified public accountant may act in that capacity for more than 7 consecutive years. Following any period of service such a person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 2 years. Effective January 1, 2010, the lead or coordinating audit partner having primary responsibility for the audit may not act in that capacity for more than 5 consecutive years, including consecutive

years immediately preceding January 1, 2010, and shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 5 consecutive years. An insurer may make application to the commissioner for relief from the rotation requirement on the basis of unusual circumstances. The application should be made at least thirty days before the end of the calendar year. Factors the commissioner may consider in determining if the relief should be granted include, but are not limited to:

- (a) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
- (b) Premium volume of the insurer; or
- (c) Number of jurisdictions in which the insurer transacts business.

(3) The insurer shall file with its annual statement filing the approval for relief from sub. (2) with the states that it is licensed in or doing business in and with the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(4) (a) The commissioner shall not recognize as a qualified independent certified public accountant a person who, or accept an annual audited financial report prepared in whole or in part by a person who, provides to an insurer, contemporaneously with the audit, the following non-audit services:

1. Bookkeeping or other services related to the accounting records or financial statements of the insurer.
2. Financial information systems design and implementation.
3. Appraisal or valuation services, fairness opinions, or contribution in-kind reports.
4. Actuarially-oriented advisory services involving the determination of amounts reported in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification "opinion" on an insurer's reserves if the following conditions have been met:
 - a. Neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;
 - b. The insurer has competent personnel, or engages a third party actuary, to estimate the reserves for which management takes responsibility; and
 - c. The accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves;
5. Internal audit outsourcing services.
6. Management functions or human resources.
7. Broker or dealer, investment advisor, or investment banking services.
8. Legal services or expert services unrelated to the audit.
9. Any other services that the commissioner determines are impermissible. The commissioner may consider utilizing the guidance provided in the Securities and Exchange Commission Final Rule No. 33–8183, Strengthening the Commission's Requirements Regarding Auditor Independence, adopted January 28, 2003, in order to evaluate whether the provision of such services impairs the independence of the accountant.

(b) In general, the principles of independence with respect to services provided by the qualified independent certified public accountant are largely predicated on three basic principles, violations of which would impair the accountant's independence. The principles are that the accountant cannot function in the role of management, cannot audit the accountant's own work, and cannot serve in an advocacy role for the insurer.

(5) Insurers having direct written and assumed premiums of less than \$ 100,000,000 in any calendar year may request an exemption from sub. (4) (a). The insurer shall file with the commissioner a written statement discussing the reasons why the insurer should be exempt from the provisions. If the commissioner finds upon review of the statement that compliance with sub. (4) (a) would constitute a financial or organizational hardship upon the insurer, an exemption may be granted.

(6) A qualified independent certified public accountant who performs the audit may engage in other non-audit services, including tax services, that are not described in sub. (4) (a) or that do not conflict with sub. (4) (b), only if the activity is approved in advance by the audit committee, in accordance with sub. (7), provided that the audit committee is in compliance with the Securities and Exchange Commission Final Rule 33–8183, Strengthening the Commission's Requirements Regarding Auditor Independence, adopted January 28, 2003.

(7) All auditing services and non-audit services provided to an insurer by the qualified independent certified public accountant of the insurer shall be preapproved by the audit committee. The preapproval requirement is waived with respect to non-audit services if the insurer is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity or:

(a) The aggregate amount of all such non-audit services provided to the insurer constitutes not more than five percent (5%) of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the non-audit services are provided;

(b) The services were not recognized by the insurer at the time of the engagement to be non-audit services; and

(c) The services are promptly brought to the attention of the audit committee and approved prior to the completion of the audit by the audit committee or by one or more members of the audit committee who are members of the board of directors to whom authority to grant the approvals has been delegated by the audit committee.

(8) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapprovals required by sub. (7). The decisions of any member to whom the authority is delegated shall be presented to the full audit committee at each of its scheduled meetings.

(9) (a) The commissioner shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for the insurer, was employed by the independent certified public accountant and participated in the audit of the insurer during the one-year period preceding the date that the most current statutory opinion is due. This paragraph shall only apply to partners and senior managers involved in the audit. An insurer may make application to the commissioner for relief from the requirement of this paragraph on the basis of unusual circumstances.

(b) The insurer shall file with its annual statement filing the approval for relief from par. (a) with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

History: Cr. Register, July, 1993, No. 451, eff. 8–1–93; CR 07–023: cr. (1) (am), Register September 2007 No. 621, eff. 10–1–07; CR 08–053: am. (2), cr. (3) to (9) Register December 2008 No. 636, eff. 1–1–09.

Ins 50.09 Consolidated or combined audits. An insurer may file audited consolidated or combined financial statements in lieu of separate annual audited financial statements required under this subchapter if the commissioner approves in writing and if the insurer is part of a group of insurers which utilizes a pooling or 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer cedes

all of its direct and assumed business to the pool. If the commissioner permits a consolidated report under this section the report shall include a columnar consolidating or combining work sheet, as follows:

(1) Amounts shown on the consolidated or combined audited financial report shall be shown on the work sheet.

(2) Amounts for each insurer subject to this section shall be stated separately.

(3) Noninsurance operations may be shown on the work sheet on a combined or individual basis.

(4) Explanations of consolidating and eliminating entries shall be included.

(5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the work sheet and comparable amounts shown on the annual statements of the insurers.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.10 Scope of audit and report of independent certified public accountant. Financial statements furnished under s. Ins 50.06 shall be audited by the independent certified public accountant. The independent certified public accountant shall conduct the audit of the insurer's financial statements in accordance with generally accepted auditing standards. In accordance with AU Section 319 of the Professional Standards of the AICPA, Consideration of Internal Control in a Financial Statement Audit, the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by AU Section 319, for those insurers required to file a management's report of internal control over financial reporting pursuant to s. Ins 50.17, the independent certified public accountant should consider, as that term is defined in Statement on Auditing Standards, SAS, No. 102, Defining Professional Requirements in Statements on Auditing Standards, or its replacement, the most recently available report in planning and performing the audit of the statutory financial statements. The independent certified public accountant shall give consideration to procedures illustrated in the financial condition examiner's handbook promulgated by the national association of insurance commissioners as the independent certified public accountant deems necessary. The commissioner may require that an independent certified public accountant conduct additional procedures or provide additional reports.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; CR 07-023: am. Register September 2007 No. 621, eff. 10-1-07; CR 08-053: am. Register December 2008 No. 636, eff. 1-1-09.

Ins 50.11 Notification of adverse financial condition. (1) An insurer shall require the independent certified public accountant to report, in writing and within 5 business days, to the board of directors of the insurer or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under audit or that the insurer does not meet the minimum capital and surplus or compulsory surplus requirements.

(2) An insurer who receives a report required under sub. (1) shall forward a copy of the report to the commissioner within 5 business days of receipt of the report and shall provide the independent certified public accountant making the report with evidence that the report has been furnished to the commissioner.

(3) An independent certified public accountant shall furnish to the commissioner a copy of its report required under sub. (1) within 10 business days after it is furnished to the insurer under sub. (1) unless the independent certified public accountant receives evidence the insurer has provided it within the 10 business day period to the commissioner as required under sub. (2).

(4) An executive officer or director of an insurer which receives notice under sub. (1) shall report the notification in writ-

ing to the commissioner within 5 business days of the date the executive officer or director first acquires knowledge of the notification unless prior to that date the insurer complies with sub. (2).

(5) If the independent certified public accountant, subsequent to the date of the audited financial report filed pursuant to this chapter, becomes aware of facts that might have affected the report, the independent certified public accountant shall take the action as prescribed in Volume 1, Section AU 561 of the Professional Standards of the AICPA.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; CR 08-053: am. (1), cr. (5) Register December 2008 No. 636, eff. 1-1-09.

Ins 50.12 Communication of internal control related matters noted in an audit. (1) An insurer shall file with the commissioner within 60 days of the date an annual audited financial report is filed, or is required under s. Ins 50.05 to be filed, a written communication prepared by the independent certified public accountant describing any unremediated material weaknesses in its internal controls over financial reporting noted during the audit. Such communication shall be prepared by the independent certified public accountant and shall contain a description of any unremediated material weakness, as the term material weakness is defined by Statement on Auditing Standard 60, Communication of Internal Control Related Matters Noted in an Audit, or its replacement, as of December 31 immediately preceding, so as to coincide with the audited financial report discussed in s. Ins 50.05 (1), in the insurer's internal control over financial reporting noted by the accountant during the course of the audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state.

(2) The insurer shall provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the independent certified public accountant's communication.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; CR 08-053: am. (title), renum. to be (1) and am., cr. (2) Register December 2008 No. 636, eff. 1-1-09.

Ins 50.13 Accountant's letter of qualifications. An accountant or accounting firm retained by an insurer to comply with this subchapter shall furnish the insurer, and the insurer shall obtain and include with the filing of the annual audited financial report required under s. Ins 50.05, a letter from the accountant or accounting firm stating:

(1) That the accountant or accounting firm is independent with respect to the insurer and conforms to the standards of his or her profession as contained in the code of professional ethics and pronouncements of the American institute of certified public accountants and the rules of professional conduct of the board of public accountancy of this state, or similar code.

(2) The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. This subchapter does not prohibit the accountant or accounting firm from utilizing such staff as he or she deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

(3) That the accountant or accounting firm understands that the annual audited financial report and his or her opinion on the annual audited financial report will be filed in compliance with this chapter and that the commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers.

(4) That the accountant or accounting firm consents to the requirements of s. Ins 50.14 and that the accountant or accounting firm consents and agrees to make available work papers for review by the commissioner.

(5) A representation that the accountant or accounting firm is properly licensed by an appropriate state licensing authority and

is a member in good standing in the American institute of certified public accountants.

(6) A representation that the accountant or accounting firm is an independent certified public accounting firm and that there are no grounds for disqualification of the accountant or accounting firm under s. Ins 50.08.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; CR 08-053: am. (4) Register December 2008 No. 636, eff. 1-1-09.

Ins 50.14 Availability and maintenance of CPA work papers. (1) An insurer shall require the accountant or accounting firm which conducts an audit or other procedure under this subchapter to make available for review all work papers and any communications related to the audit or procedure between the insurer and the accountant or accounting firm at the offices of the insurer or at a reasonable place designated by the commissioner. The insurer shall require that the accountant retain the audit work papers and communications until the commissioner has filed a report on examination covering the period of the audit but no longer than 7 years from the date of the audit report.

(2) The commissioner may photocopy work papers and retain the copies. All working papers and communications obtained by the commissioner under this section may be treated by the commissioner as confidential under s. 601.465, Stats.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; CR 08-053: renum. from Ins 50.15 Register December 2008 No. 636, eff. 1-1-09.

Ins 50.15 Requirements for audit committees. (1) This section does not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity.

(2) The audit committee shall be directly responsible for the appointment, compensation and oversight of the work of any accountant, including resolution of disagreements between management and the accountant regarding financial reporting, for the purpose of preparing or issuing the audited financial report or related work pursuant to this chapter. Each accountant shall report directly to the audit committee.

(3) Each member of the audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to sub. (6) and s. Ins 50.01 (1r).

(4) In order to be considered independent for purposes of this section, a member of the audit committee may not, other than in the capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affili-

ated person of the entity or any subsidiary thereof. However, if a law requires board participation by otherwise non-independent members, the law shall prevail and the members may participate in the audit committee and be designated as independent for audit committee purposes, unless the members are an officer or employee of the insurer or one of its affiliates.

(5) If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, the member, with notice by the insurer to the commissioner, may remain an audit committee member of the insurer until the earlier of the next annual meeting of the insurer or one year from the occurrence of the event that caused the member to be no longer independent.

(6) To exercise the election of the controlling person to designate the audit committee for purposes of this chapter, the ultimate controlling person shall provide written notice to the commissioner of the affected insurers. Notification shall be made timely prior to the issuance of the audited financial report and include a description of the basis for the election. The election can be changed through notice to the commissioner by the insurer, which shall include a description of the basis for the change. The election shall remain in effect for perpetuity, until rescinded.

(7) (a) The audit committee shall require the independent certified public accountant that performs for an insurer any audit required by this chapter to timely report to the audit committee in accordance with the requirements of SAS 61, Communication with Audit Committees, or its replacement, including:

1. All significant accounting policies and material permitted practices.

2. All material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramification of the use of the alternative disclosures and treatments, and the treatment preferred by the independent certified public accountant.

3. Other material written communications between the independent certified public accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(b) If an insurer is a member of an insurance holding company system, the reports required by sub. (7) (a) may be provided to the audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the audit committee.

(8) The proportion of independent audit committee members shall meet or exceed the criteria contained in the following table unless the commissioner orders a greater proportion of independent audit committee members:

Prior Calendar Year Direct Written and Non-Affiliated Assumed Premiums		
\$0 - \$300,000,000	\$300,000,000 - \$500,000,000	Over \$500,000,000
No minimum requirements.	Majority (50% or more) of members shall be independent.	Supermajority of members (75% or more) shall be independent.

(9) An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$ 500,000,000 may make application to the commissioner for a waiver from this section based upon hardship. The insurer shall file with its annual statement filing the approval for relief from the requirements of this section with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

History: CR 08-053; cr. Register December 2008 No. 636, eff. 1-1-09.

Ins 50.16 Conduct of insurer in connection with the preparation of required reports and documents. (1) No director or officer of an insurer shall, directly or indirectly:

(a) Make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review or communication required under this chapter.

(b) Omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review or communication required under this chapter.

(2) No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence any independent certified public accountant engaged in the performance of an audit pursuant to this chapter if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading. In this subsection, actions that "if successful, could result in rendering the insurer's financial statements materially misleading" include actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead or fraudulently influence an independent certified public accountant:

(a) To issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances, due to material violations of statutory accounting principles prescribed by the commissioner, generally accepted auditing standards, or other professional or regulatory standards.

(b) Not to perform audit, review or other procedures required by generally accepted auditing standards or other professional standards.

(c) Not to withdraw an issued report.

(d) Not to communicate matters to an insurer's audit committee.

History: CR 08-053; cr. Register December 2008 No. 636, eff. 1-1-09.

Ins 50.17 Management's report of internal control over financial reporting. (1) Every insurer required to file an audited financial report pursuant to this subchapter that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of \$ 500,000,000 or more shall prepare a report of the insurer's or group of insurers' internal control over financial reporting as the terms are defined in s. Ins 50.01. The report shall be filed with the commissioner along with the Communication of Internal Control Related Matters Noted in an Audit described in s. Ins 50.12. Management's report of internal control over financial reporting shall be as of December 31 immediately preceding.

(2) Notwithstanding the premium threshold in sub. (1), the commissioner may require an insurer to file management's report of internal control over financial reporting if the insurer is in any risk based capital event as described in s. Ins 51.01, or the insurer is in financially hazardous condition.

(3) In lieu of the management's report of internal control over financial reporting, an insurer or a group of insurers may file a report described in sub. (4) if any of the following criteria are applicable:

(a) The insurer is directly subject to Section 404.

(b) The insurer is part of a holding company system whose parent is directly subject to Section 404.

(c) The insurer is not directly subject to Section 404 but is a SOX Compliant Entity.

(d) The insurer is a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity.

(4) An insurer qualifying under sub. (3) may file its or its parent's Section 404 report and an addendum in satisfaction of the requirements under sub. (1) or (2), provided that the internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements, those items included in s. Ins 50.06 (2) (b) to (3), were included in the scope of the Section 404 report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements, those items included in s. Ins 50.06 (2) (b) to (3), excluded from the Section 404 report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 report, the insurer or group of insurers may either file:

(a) A management's report of internal control over financial reporting pursuant to sub. (1) or (2); or

(b) The Section 404 report and a management's report of internal control over financial reporting for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 report.

(5) Management's report of internal control over financial reporting shall include:

(a) A statement that management is responsible for establishing and maintaining adequate internal control over financial reporting.

(b) A statement that management has established internal control over financial reporting and an assertion to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles.

(c) A statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting.

(d) A statement that briefly describes the scope of work that is included and whether any internal controls were excluded.

(e) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding. Management may not conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its internal control over financial reporting.

(f) A statement regarding the inherent limitations of internal control systems.

(g) Signatures of the chief executive officer and the chief financial officer, or equivalent position or title.

(6) Management shall document and make available upon financial condition examination the basis upon which its assertions required in this section are made. Management may base its assertions, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities.

(a) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of doc-

umentation, in order to make its assertion in a cost effective manner and, as such, may include assembly of or reference to existing documentation.

(b) Management's report on internal control over financial reporting, required by this section, and any documentation provided in support thereof during the course of a financial condition examination, shall be kept confidential.

History: CR 08-053; cr. Register December 2008 No. 636, eff. 1-1-09.

Ins 50.18 Exemptions and effective dates. (1) The commissioner may grant an exemption from compliance with this subchapter if the commissioner finds that compliance would constitute a financial or organizational hardship upon the insurer, except as provided in ss. Ins 50.08 (2), (9) (a) and 50.15 (9).

(2) An exemption may be granted at any time and from time to time for a specified period.

(3) Subject to subs. (6) and (7), this subchapter shall apply to domestic insurers retaining a certified public accountant on the effective date of this subsection who qualifies as independent, for the year ending December 31, 2008, and each year thereafter.

(4) Section Ins 50.08 (3) to (9) shall apply to domestic insurers not retaining a certified public accountant on the effective date of this subsection who qualifies as independent, for the year ending December 31, 2009, and each year thereafter.

(5) Sections Ins 50.08 (3) to (9), 50.11 (5), 50.12 (2) and 50.16 shall apply to foreign and alien insurers otherwise subject to this subchapter for the year ending December 31, 2010, and each year thereafter.

(6) The requirements of s. Ins 50.15 are effective January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members, as opposed to a supermajority, because the total written and assumed premium is below the threshold, and subsequently becomes subject to one of the independence requirements due to changes in premium shall have one year following the year the threshold is exceeded, but not earlier than January 1, 2010, to comply with the independence requirements. An insurer that becomes subject to one of the independence requirements as a result of a business combination shall have one calendar year following the date of acquisition or combination to comply with the independence requirements.

(7) The requirements of s. Ins 50.17 are effective beginning with the reporting period ending December 31, 2010, and each year thereafter. An insurer or group of insurers that is not required to file a report because the total written and assumed premium is below the threshold and subsequently becomes subject to the reporting requirements shall have 2 years following the year the threshold is exceeded, but not earlier than December 31, 2010, to file a report. An insurer acquired in a business combination shall have 2 calendar years following the date of acquisition or combination to comply with the reporting requirements.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; CR 08-053; renun. from Ins 50.16, am. (title) and (1), cr. (3) to (7) Register December 2008 No. 636, eff. 1-1-09.

Ins 50.19 Canadian and British companies. (1) In the case of Canadian and British insurers, for the purpose of this subchapter the annual audited financial report shall be defined as the annual statement of total business on the form filed by the insurers with their domiciliary supervisory authority duly audited by an independent chartered accountant.

(2) For Canadian and British insurers, the letter required in s. Ins 50.07 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under s. Ins 50.05 and shall affirm that the opinion expressed is in conformity with those requirements.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; CR 08-053; renun. from Ins 50.17 Register December 2008 No. 636, eff. 1-1-09.

Subchapter II — Annual Financial Statements

Ins 50.20 Insurers to file annual financial statements. (1) An insurer shall file an annual financial statement with the commissioner. Except as otherwise required by law, rule, order or instruction of the commissioner, an insurer shall file the annual financial statement:

(a) On the national association of insurance commissioners annual statement blank appropriate for the lines of business the insurer is authorized to write, except an insurer licensed under ch. 612, Stats., may file on the town mutual annual statement blank prescribed by the commissioner; and

(b) Prepared in accordance with the national association of insurance commissioners annual statement instructions and the accounting practices or procedures prescribed or permitted by the applicable national association of insurance commissioners accounting practices and procedures manual except an insurer licensed under ch. 612, Stats., shall prepare the statement as prescribed by the commissioner.

(2) Insurers shall file the annual statement required under sub. (1) by March 1, except insurers organized under ch. 612, Stats., shall file by February 15 and the commissioner may prescribe a different date for individual insurers.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.25 Insurers to file with the national association of insurance commissioners. (1) This section applies to all licensed insurers, except:

(a) Those categories of insurers whose annual or quarterly statements the national association of insurance commissioners does not collect on the date filing is required, unless otherwise required by the commissioner;

(b) An insurer organized under ch. 612, Stats., unless otherwise ordered by the commissioner; and

(c) Insurers the commissioner exempts after finding an exemption is in the public interest.

(2) An insurer shall annually on or before March 1 file with the national association of insurance commissioners a copy of the annual statement it is required to file under s. Ins 50.20 and any supplemental information which the commissioner requires to be included with the annual statement. The insurer shall include with the copy a signed jurat page and actuarial certificate and shall also file copies of any subsequent amendments or addendums filed with the commissioner with the national association of insurance commissioners.

(3) An insurer shall file a quarterly financial statement with and in the form prescribed by the national association of insurance commissioners within 45 days of the end of each quarter.

(4) An insurer shall file the information required under sub. (2) or (3) in the form of media prescribed by the national association of insurance commissioners.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.30 Actuarial opinion required. (1) An insurer shall file with the annual financial statement required under s. Ins 50.20 a statement of actuarial opinion from a qualified actuary in accordance with the appropriate national association of insurance commissioners annual statement instructions.

(2) A domestic property and casualty insurer required to file an actuarial opinion under sub. (1) shall do all of the following:

(a) Submit an actuarial opinion summary, written by the insurer's appointed actuary, with the financial statement and actuarial opinion. The actuarial opinion summary shall be filed in accordance with the appropriate national association of insurance commissioners property and casualty annual statement instructions and shall be considered as a document supporting the actuarial opinion required in sub. (1).

(b) Prepare an actuarial report and supporting work papers as required by the appropriate national association of insurance commissioners property and casualty annual statement instructions to support each actuarial opinion. The office of the commissioner of insurance may require the insurer to file the actuarial report or supporting work papers. The insurer is required to file the actuarial report or supporting work papers only if the insurer is asked to do so by the office of the commissioner of insurance.

(3) An insurer licensed but not domiciled in this state shall provide the office of the commissioner of insurance an actuarial opinion summary and actuarial report and supporting work papers described under sub. (2) upon request.

(4) (a) Nothing in this section restricts the office of the commissioner of insurance from engaging a qualified actuary under s. 601.42 (7) or 601.43, Stats., at the expense of the insurer to review the actuarial opinion filed under sub. (1) and the basis for the opinion or to review or to prepare or create the actuarial opinion, actuarial report or supporting work papers.

(b) 1. The office of the commissioner of insurance under subs. (2) and (3) requires filing of documents, materials or other information pursuant to s. 601.42, Stats. Documents, materials or other information in the possession or control of the office of the commissioner of insurance that are considered an actuarial report, supporting work papers or actuarial opinion summary provided in support of the actuarial opinion, and any other material provided by the insurer to the office of the commissioner of insurance in connection with the actuarial report, supporting work papers or actuarial opinion summary, are subject to s. 601.465, Stats. The office of the commissioner of insurance, under s. 601.465, Stats., may refuse to disclose and prevent any person from disclosing, the documents, material or other information in response to a request for production, deposition, subpoena, or otherwise.

2. Subdivision 1. may not be construed to limit the commissioner's authority to release the documents, material or other information, including to an actuarial board for counseling and discipline, nor may this section be construed to limit the commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

3. Nothing in this section restricts the commissioner from doing any of the following:

a. Sharing the documents, materials or other information subject to subd. 1. with state, local, federal and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, or with state, local, federal and international law enforcement authorities.

b. Receiving documents, materials or information, from the national association of insurance commissioners and its affiliates and subsidiaries, or from state, local, federal and international regulatory agencies or law enforcement, and treating those documents, materials and information as confidential as permitted under s. 601.465, Stats.

(5) This section may be enforced under ss. 601.41, 601.64, 601.65, Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; CR 05-066: m. to be (1) and am., cr. (2) to (5) Register January 2006 No. 601, eff. 2-1-06.

Subchapter III — Examinations

Ins 50.50 Examinations. (1) The commissioner may determine the nature, scope and frequency of examinations under s. 601.43, Stats., except at a minimum every insurer licensed in this state shall be examined every 5 years, unless it is a limited service health organization, town mutual, a gift annuity licensee under ch. 615, Stats., motor club, warranty plan, or an insurer exempted under s. 610.49, 1981 stats.

(2) Factors the commissioner may consider in determining the scheduling of an examination include, but are not limited to,

results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, other criteria in the Examiners' Handbook adopted by the national association of insurance commissioners, and the priority of conducting an examination of an insurer relative to other insurers.

(3) The commissioner may determine the nature and scope of an examination. An examination may, but need not, cover all aspects of the insurer's assets, condition, affairs and operations, and may involve or be supplemented by review of audit procedures performed by accountants. Examinations may include, but are not limited to, the following types of examinations:

(a) Compliance examinations which are a general review of the insurer's corporate affairs and insurance operations to determine compliance with chs. 600 to 646, Stats. A compliance examination may consist of review of an accountant's work papers or be supplemented by such a review.

(b) Targeted examinations are limited to a review of specified areas. Areas that may be targeted may include, but are not limited to, life reserve valuations, claims analyses, organizational and capital changes, loss reserves or market conduct.

(c) Comprehensive examinations which are complete examinations of the condition and affairs of the insurer.

(4) After the commissioner issues an adopted examination report, the insurer examined shall promptly file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(5) The office of the commissioner of insurance, under s. 601.465, Stats., may refuse to disclose and prevent any person from disclosing, in response to a request for production, deposition, subpoena, or otherwise, information obtained from the national association of insurance commissioners or another insurance department under pledge of confidentiality or for the purpose of conducting an investigation or examination or obtained, produced or created in the course of an inquiry under s. 601.42, Stats., or examination under s. 601.43, Stats. This privilege applies to information obtained, produced or created before or after the effective date of s. 601.465, Stats., and regardless of whether an inquiry, investigation or examination has been concluded, except it does not apply to a document which is an adopted examination report. An adopted examination report is available for public inspection as required under s. 601.44 (6), Stats. The office or the commissioner may disclose the content of an examination report, preliminary examination report or results, or any matter relating a report or the results of an examination to further legal or regulatory action, or to the insurance department of any other state or country or to law enforcement officials of this or any other state or agency of the federal government, so long as the department, agency or office agrees in writing to hold it confidential.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.55 Examination of foreign and alien insurers.

(1) The commissioner may accept, under s. Ins 50.50, an examination report on a licensed foreign or alien insurer which is prepared by the insurance department for the insurer's state of domicile until December 31, 1993. After December 31, 1993, an examination report from the insurance department of the insurer's state of domicile may only be accepted if:

(a) The insurance department is at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; or

(b) The examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by an accredited state insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

(2) A foreign or alien insurer shall file written notice with the commissioner if it has not received an examination call for an examination which will be acceptable under this section for the determination of the financial condition of the insurer within 4 years after the date for which the last examination of the insurer examined the financial condition of the insurer.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Subchapter IV — Actuarial Opinion

Ins 50.60 Definitions. In this chapter, “qualified actuary” means a member in good standing of the American academy of actuaries unless disqualified by a standard or determination of the commissioner.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.

Ins 50.65 Actuarial opinion required. (1) For each year ending on or after December 31, 1996, every life insurance company doing business in this state shall submit to the commissioner, with its annual statement due by March 1 of the following year, an opinion by a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner satisfy all of the following:

- (a) They are computed appropriately.
- (b) They are based on assumptions that satisfy contract provisions.
- (c) They are consistent with prior reported amounts.
- (d) They comply with the applicable laws of this state.

(2) The opinion under sub. (1) shall be in the form and contain the information required by the commissioner.

(3) (a) Every life insurance company shall include with the opinion required under sub. (1) the opinion of the qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company’s obligations under the policies and contracts, including but not limited to, the benefits under and expenses associated with the policies and contracts. The commissioner may allow a transition period for an insurance company to establish any higher reserves that the qualified actuary determines are necessary to make adequate provision for the company’s obligations under the policies and contracts. This subchapter and subch. V may be enforced under s. 601.41 or 601.64, ch. 645, Stats., or any other enforcement provision of chs. 601 to 645, Stats.

(b) An insurance company that is required to submit an opinion under par. (a) shall have prepared by the qualified actuary who renders the opinion and memorandum in support of the opinion under par. (a). The memorandum shall be in the form, and provide the information, required by the form specified by the commissioner. The insurance company shall provide the memorandum to the commissioner, at the commissioner’s request, for the commissioner’s examination. After examination, the commissioner may return the memorandum to the insurance company.

(c) If an insurance company fails to provide a supporting memorandum to the commissioner upon request within the period specified, or if the commissioner determines that the supporting memorandum provided by an insurance company is otherwise unacceptable, the commissioner may retain a qualified actuary at the expense of the insurance company to review the opinion required under par. (a) and the basis for the opinion and to prepare supporting memorandum as the commissioner requires.

(4) The following provisions apply to an opinion required under sub. (1) or (2):

(a) The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the commissioner.

(b) The opinion shall be based on standards adopted from time to time by the actuarial standards board established by the American academy of actuaries and on such additional standards as the commissioner may prescribe.

(c) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(5) An insurer which violates this chapter or an insurer or actuary which submits an opinion or memorandum which includes a misrepresentation is subject to the penalties specified under ch. 601, Stats.

(6) (a) Any memorandum in support of, and any other material provided by an insurance company to the commissioner in connection with, an opinion required under this section is subject [to] s. 601.465, Stats.

(b) The commissioner may release any such memorandum or other material with the written consent of the insurance company, or to the American academy of actuaries upon its request if the memorandum or other material is required for professional disciplinary proceedings and if the request sets forth procedures that are satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; CR 04-071: am. (3) (a) Register December 2004 No. 588, eff. 12-31-05.

Ins 50.67 Reserves. (1) An insurance company’s aggregate reserves for all policies, contracts and benefits may not be less than the aggregate reserves determined by a qualified actuary in an opinion under this chapter to be necessary to make adequate provision for the company’s obligations under the policies and contracts.

(2) For the purpose of s. 623.06 (6), Stats., holding any additional reserves that a qualified actuary, in an opinion under this chapter determined to be necessary to make adequate provision for the company’s obligations under the policies and contracts shall not be considered the adoption of a higher standard of valuation.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.

Ins 50.68 Reliance on actuary opinion. An actuarial opinion which is issued by a qualified actuary and required under this subchapter and subch. V is solely for the benefit of the insurer which is the subject of the opinion, the commissioner and the office. It is not for the benefit of any other person and is therefore not to be relied upon by any other person unless reliance is induced by fraud or willful misconduct.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.

Subchapter V — Actuarial Opinion and Memorandum Regulation

Ins 50.70 Purpose. The purpose of this rule is to prescribe:

(1) Guidelines and standards for statements of actuarial opinion which are to be submitted in accordance with subch. IV and ch. 623, Stats., and for memoranda in support of such an opinion.

(2) Rules applicable to the appointment of an appointed actuary.

(3) Guidance as to the meaning of “adequacy of reserves.”

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; CR 04-071: r. (2), renum. (3) to be (2), cr. (3) Register December 2004 No. 588, eff. 12-31-05.

Ins 50.71 Authority. This rule is issued pursuant to the authority vested in the commissioner under ss. 601.42, 601.43, 601.465, Stats., and ch. 623, Stats.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; CR 04-071: am. Register December 2004 No. 588, eff. 12-31-05.

Ins 50.72 Scope. This subchapter shall apply to all life insurance companies and fraternal benefit societies doing business in this state and to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance business in this state. This subchapter shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the commissioner may specify specific methods of actuarial analysis and actuarial assumptions when, in the commissioner's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items. This subchapter shall be applicable to all annual statements filed with the office of the commissioner of insurance. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with s. Ins 50.78, and a memorandum in support thereof in accordance with s. Ins 50.79, is required each year.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; CR 04-071: renum. (1) to be Ins 50.72 and am., r. (2) Register December 2004 No. 588, eff. 12-31-05.

Ins 50.73 Definitions. In this subchapter:

(1) "Actuarial opinion" means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with s. Ins 50.78 and with applicable actuarial standards of practice.

(2) "Actuarial standards board" is the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

(3) "Annual statement" means that statement required by s. Ins 50.20 to be filed by the company annually.

(4) "Appointed actuary" means any individual who is appointed or retained in accordance with the requirements set forth in s. Ins 50.75 (3) to provide the actuarial opinion and supporting memorandum as required by subch. IV and ch. 623, Stats.

(5) "Asset adequacy analysis" means an analysis that meets the standards and other requirements referred to in s. Ins 50.75 (4). It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory.

(6) "AVR" means asset valuation reserve.

(7) "Commissioner" means the commissioner of insurance of this state.

(8) "Company" means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of [this] subchapter.

(9) "Qualified Actuary" means any individual who meets the requirements set forth in s. Ins 50.75 (2).

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; CR 04-071: cr. (intro.) and (6), am. (1), renum. (6) and (7) to be (7) and (8), r. (8) Register December 2004 No. 588, eff. 12-31-05.

Ins 50.75 General requirements. (1) SUBMISSION OF STATEMENT OF ACTUARIAL OPINION. (a) There is to be included on or attached to Page 1 of the annual statement for each year beginning with 1996 the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with s. Ins 50.78.

(b) Upon written request by the company, the commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

(2) QUALIFIED ACTUARY. A qualified actuary is an individual who:

(a) Is a member in good standing of the American Academy of Actuaries;

(b) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;

(c) Is familiar with the valuation requirements applicable to life and health insurance companies; and

(d) Has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:

1. Violated any provision of, or any obligation imposed by, an insurance law or other law in the course of his or her dealings as a qualified actuary;

2. Been found guilty of fraudulent or dishonest practices;

3. Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

4. Submitted to the commissioner during the past 5 years, pursuant to this subchapter, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this subchapter including standards set by the actuarial standards board; or

5. Resigned or been removed as an actuary within the past 5 years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

(e) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under par. (d).

(3) APPOINTED ACTUARY. An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this subchapter either directly by or by the authority of the board of directors through an executive officer of the company other than the qualified actuary. The company shall give the commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements set forth in sub. (2). Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the commissioner timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in sub. (2). If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

(4) STANDARDS FOR ASSET ADEQUACY ANALYSIS. The asset adequacy analysis required by this subchapter:

(a) Shall conform to the standards of practice as promulgated from time to time by the actuarial standards board and on any additional standards under this subchapter, which standards are to form the basis of the statement of actuarial opinion in accordance with s. Ins 50.78; and

(b) Shall be based on methods of analysis as are deemed appropriate for such purposes by the actuarial standards board.

(5) LIABILITIES TO BE COVERED. (a) Under authority of ch. 623, Stats., and subch. IV, the statement of actuarial opinion shall apply to all in force business on the statement date regardless of when or where issued. This includes items reported in the annual statement exhibits pertaining to contract reserves for life insurance, annuities, accident and health insurance, and deposit type contracts; liabilities for unpaid claims; and equivalent items in the separate account statement or statements.

(b) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in s. 623.06 (3), (3m), (4m) and (7), Stats., and s. Ins 3.17, the company shall establish such additional reserve.

(c) Additional reserves established under par. (b) and deemed not necessary in subsequent years may be released. Any amounts released must be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; CR 04-071: am. (1) (a), (3) and (5) (a), r. (1) (b), (c) and (5) (c), renum. (1) (d) and (5) (d) to be (1) (b) and (5) (c) and am. (5) (c) Register December 2004 No. 588, eff. 12-31-05.

Ins 50.76 Required opinions. In accordance with subch. IV and ch. 623, Stats., every company doing business in this state shall annually submit the opinion of an appointed actuary as provided for by this subchapter.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; CR 04-071: r. and recr. Register December 2004 No. 588, eff. 12-31-05.

Ins 50.78 Statement of actuarial opinion based on an asset adequacy analysis. (1) GENERAL DESCRIPTION. The statement of actuarial opinion submitted in accordance with this subchapter shall consist of:

(a) A paragraph identifying the appointed actuary and his or her qualifications;

(b) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed;

(c) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, including anticipated cash flows from currently owned assets and variation in cash flows according to economic scenarios, supported by a statement of each such expert in the form prescribed by sub. (5); and

(d) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities.

(e) One or more additional paragraphs will be needed in individual company cases as follows:

1. If the appointed actuary considers it necessary to state a qualification of his or her opinion;

2. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion.

3. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release.

4. If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

(2) RECOMMENDED LANGUAGE. The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. The language provided in this subsection is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language which clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

(a) The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

1. For a company actuary, the opening paragraph of the actuarial opinion should read as follows: "I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

2. For a consulting actuary, the opening paragraph should contain a sentence such as: "I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(b) The scope paragraph shall include a statement, and table, such as the following: "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, [year]. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

Asset Adequacy Tested Amounts—Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (2)	Analysis Method	Other Amount (3)	Total Amount (1)+(2)+(3)+(4)
Exhibit					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability—Active					
F Disability—Disabled					
G Miscellaneous					
Total					

Asset Adequacy Tested Amounts—Reserves and Liabilities (Continued)					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (2)	Analysis Method	Other Amount (3)	Total Amount (1)+(2)+(3)+(4)
Exhibit					
A Active Life Reserve					
B Claim Reserve					
Total					
Exhibit					
Premium and Other Deposit Funds					
Guaranteed Interest Contracts					
Other					
Supplemental Contracts and Annuities Certain					
Dividend Accumulations or Refunds					
Total					
Exhibit					
1 Life					
2 Health					
Total					
Separate Accounts					
TOTAL RESERVES					

Interest maintenance reserve (General Account, Page ____, Line ____)	
(Separate Accounts, Page ____, Line ____)	
AVR (Page ____, Line ____)	
Net Deferred and Uncollected Premium	

(bg) The tabulation in the scope paragraph required under par. (b) shall conform to the following:

1. The additional actuarial reserves are the reserves established under s. Ins 50.75 (5) (b).
2. The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in s. Ins 50.75 (4), by means of symbols which should be defined in footnotes to the table.
3. The AVR shall be the allocated amount of asset valuation reserve.

(c) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as the following: "I have relied on [name], [title] for [insert description of a portion relied upon such as anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement. I have reviewed the information relied on for reasonableness."

(cg) A statement of reliance on other experts shall be accompanied by a statement by each of such experts in the form prescribed by sub. (5).

(d) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall also include the following: "My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying

basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement."

(e) If the appointed actuary has not examined the underlying records, but has relied upon data, such as listings and summaries of policies in force or asset records, prepared by the company, the reliance paragraph shall include a statement such as: "In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary."

(eg) A section described in par. (e) shall be accompanied by a statement by each person relied upon in the form prescribed by sub. (5).

(f) The opinion paragraph should include all of the following:

1. "In my opinion the reserves and related actuarial values concerning the statement items identified above:
 - a. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;
 - b. Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provi-

sion as to reserve basis and method, and are in accordance with all other contract provisions;

c. Meet the requirements of the insurance law and rules of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed, unless alternative language is approved under sub. (6).

d. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below);

e. Include provision for all actuarial reserves and related statement items which ought to be established.

f. The reserves and related items, when considered in light of the assets held by the company with respect to the reserves and related actuarial items including, but not limited to, the investment earnings on the assets, and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

g. The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the actuarial standards board, which standards form the basis of this statement of opinion.”

1m. The commissioner may approve omission of the language in subd. 1. f. for an opinion filed on behalf of a company doing business only in this state and in no other state.

2. The appropriate one of the following 2 paragraphs:

a. This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.” or

b. “The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)“

3. “The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company’s future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary
Address of Appointed Actuary
Telephone Number of Appointed Actuary
Date

(3) ASSUMPTIONS FOR NEW ISSUES. The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this section.

(4) ADVERSE OPINIONS. If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary’s opinion is adverse or qualified, then he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(5) RELIANCE ON INFORMATION FURNISHED BY OTHER PERSONS. If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion shall indicate the persons the actu-

ary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

(6) ALTERNATE OPTION. (a) The commissioner has authority under ch. 623, Stats., to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements sub. (2) (f) 1. c., the commissioner may, by written approval issued to a specific insurer, allow the opining actuary to use one or more of the following additional approaches:

1. A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile.” If the commissioner chooses to allow this alternative, the commissioner’s approval shall provide instructions with a list of standards and conditions. If a company chooses to use this alternative, the commissioner’s approval, including standards and conditions for that approval in effect on July 1 of a calendar year, shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. The commissioner will not grant approval under this subdivision unless instructions are included with standards and conditions.

2. A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company’s request to file an opinion based on the law of the state of domicile has been approved and that any conditions required by the commissioner for approval of that request have been met.” This alternative may be used only if the commissioner issues a formal written statement of such allowance no later than March 31 of the year it is first effective. It shall remain valid until rescinded or modified by the commissioner. The rescission or modifications shall be issued no later than March 31 of the year they are first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request is deemed approved on October 1 of that year if the commissioner has not denied the request by that date.

3. A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state.” This alternative statement may be used only if the commissioner gives written approval to the specific insurer, with instructions for a written list of products, to be added to the table in subd. 3. a., for which the required comparison shall be provided. If a company chooses to use this alternative, the approved instructions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and the approval and instructions shall remain in effect until they are revised or revoked. This alternative is not available unless the commissioner approves and includes instructions. If a company uses this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall comply with the commissioner’s instructions and shall include at least all the following:

a. A table as follows:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

b. The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.

c. If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.

(b) The comparison provided by the company under par. (a) shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(c) Notwithstanding par. (a), the commissioner may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. The commissioner may contract an independent actuary at the company's expense to prepare and file the opinion unless a company provides the required opinion within sixty days of the date the commissioner demands that the company provide such an opinion or such other period of time determined by the commissioner after consultation with the company. The paragraph does not limit or restrict the penalties or other consequence that otherwise apply for failure to timely file the required opinion.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; CR 04-071: am. (1) (intro.), (2) (bg) 1., 3., (c) (intro.), (d), (eg), (f) 1. c., e., and 3., r. (1) (e) 2. and 3., (2) (c) 1. and 2., renum. (1) (e) 4. to 6. to be (1) (e) 2. to 4., r. and recr. (2) (b), (e), and (5), cr. (2) (f) 1. f. and g., 1m., and (6) Register December 2004 No. 588, eff. 12-31-05.

Ins 50.79 Description of the actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary. (1) GENERAL. (a) In accordance with subch. IV and ch. 623, Stats., the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves under a s. Ins 50.78 opinion. The memorandum shall be made available for examination by the commissioner upon his or her request but shall be returned to the company after such examination and shall not be subject to automatic filing with the commissioner.

(b) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of s. Ins 50.75 (2), with respect to the areas covered in such memoranda, and so state in their memoranda.

(c) If the commissioner requests a memorandum and no such memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the actuarial standards board or the standards and requirements of this subchapter, the commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commissioner.

(d) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to the statute governing this subchapter and as permitted by

s. 601.465, Stats. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this subchapter for any one of the current year or the preceding three years.

(e) In accordance with subch. IV and ch. 623, Stats., the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in sub. (3). The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(2) DETAILS OF THE MEMORANDUM SECTION DOCUMENTING ASSET ADEQUACY ANALYSIS. When an actuarial opinion under s. Ins 50.78 is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in s. Ins 50.75 (4) and any additional standards under this subchapter. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions. It shall specify all of the following:

(a) For reserves:

1. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;

2. Source of liability in force;

3. Reserve method and basis;

4. Investment reserves;

5. Reinsurance arrangements;

6. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis; and

7. Documentation of assumptions to test reserves for the following:

a. Lapse rates, both base and excess;

b. Interest crediting rate strategy;

c. Mortality;

d. Policyholder dividend strategy;

e. Competitor or market interest rate;

f. Annuitization rates;

g. Commissions and expenses; and

h. Morbidity.

(b) For assets:

1. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;

2. Investment and disinvestment assumptions;

3. Source of asset data;

4. Asset valuation bases; and

5. Documentation of assumptions made for:

a. Default costs;

b. Bond call function;

c. Mortgage prepayment function;

d. Determining market value for assets sold due to disinvestment strategy; and

e. Determining yield on assets acquired through the investment strategy.

(c) Analysis basis:

1. Methodology;

2. Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed;

3. Rationale for degree of rigor in analyzing different blocks of business, including the rationale for the level of materiality that was used in determining how rigorously to analyze different blocks of business;

4. Criteria for determining asset adequacy, including the precise basis for determining if assets are adequate to cover reserves under moderately adverse conditions or other conditions as specified in relevant actuarial standards of practice; and

5. Whether the effect of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis.

(d) Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis.

(e) Summary of results.

(f) Conclusions.

(3) DETAILS OF THE REGULATORY ASSET ADEQUACY ISSUES SUMMARY. (a) The regulatory asset adequacy issues summary shall include all of the following:

1. Descriptions of the scenarios tested, including whether those scenarios are stochastic or deterministic, and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary shall describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.

2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis.

3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion.

4. Comments on any interim results that may be of significant concern to the appointed actuary.

5. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested.

6. Whether the actuary has been satisfied that all options whether explicit or embedded in any asset or liability, including, but not limited to, those affecting cash flows embedded in fixed income securities and equity-like features in any investments,

have been appropriately considered in the asset adequacy analysis.

(b) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

(4) CONFORMITY TO STANDARDS OF PRACTICE. The memorandum shall include the following statement: "Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate standards of practice as promulgated by the actuarial standards board, which standards form the basis for this memorandum."

(5) USE OF ASSETS SUPPORTING THE INTEREST MAINTENANCE RESERVE AND THE ASSET VALUATION RESERVE. An appropriate allocation of assets in the amount of the interest maintenance reserve, whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the AVR; these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR shall be disclosed in the table of reserves and liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(6) DOCUMENTATION. The appointed actuary shall retain on file, for at least 7 years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; CR 04-071: cr. (1) (e), (2) (a) 6. and 7., (b) 5., (d), (3) and (5), am. (2) (intro.), (a) 4. and 5., (b) 3. and 4., (c) 3. to 5., renum. (2) (d), (e) and (3) to be (2) (e), (f) and (4), sub. (6) renum. from Ins 50.80 (5) Register December 2004 No. 588, eff. 12-31-05.

Subchapter VI — Risk Retention and Purchasing Groups

Ins 50.85 Risk retention groups and risk purchasing groups. (1) The commissioner is constituted attorney to receive

service of summons, notices, orders, pleadings and all other legal process relating to any court or administrative agency in this state for all risk retention groups and risk purchasing groups as to any proceeding arising out of the business of insurance in this state, insurance activities in this state, or out-of-state activities related to policies on risks within this state.

(2) A risk retention group or risk purchasing group may not conduct an insurance business or engage in any insurance activity in this state until it registers with the commissioner and designates the commissioner as its agent for the purposes described under sub. (1). If a risk retention group or risk purchasing group fails to designate the commissioner as required by this section, the commissioner is deemed appointed as provided by sub. (1).

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.